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Title 20. Public Utilities and Energy
Division 2. State Energy Resources Conservation and Development Commission
Chapter 4.1. Flexible Demand
Article 1. Flexible Demand Appliance Standards

Adopt Chapter 4.1, Article 1 and the following new sections 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, and 1695 into Title 20, California Code of Regulations, to read as follows:

Section 1686. Scope.

This Article applies to the following types of new appliances sold or offered for sale, rented, leased, or introduced into commerce in California. Unless otherwise specified, each provision applies only to units manufactured on or after the effective date of the provision.

(a) Electric clothes dryers.

- (1) Compact clothes dryers
- (2) Standard clothes dryers

(b) Dishwashers.

- (1) Compact dishwashers
- (2) Standard dishwashers

(c) Pool pump controls.

(d) Thermostats.

- (1) Low-voltage system thermostats

Note:

Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.

Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

Section 1687. Definitions.

(a) In this Article the following definitions apply.

(b) General Definitions.

“Accessible place” means a place on an appliance that can be easily seen without the need for tools to remove any covering.

“Authorized entities” means the owner of the equipment, the user of the equipment, or the owner’s or user’s delegated agent.

“Basic model” means all units of a given type of appliance (or class thereof) that are manufactured by the same manufacturer or manufacturers, have the same primary energy source, and have the same electrical, physical, or functional characteristics that affect compliance with a flexible demand standard.

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36 “Connected device” means any device that is capable of connecting to the Internet, and that is
37 assigned an Internet Protocol address or Bluetooth address.

38 “Consent” means a customer’s permission or agreement to use the capabilities of an appliance
39 subject to this Article to schedule, shift, or curtail its use through direct action by the customer
40 or by a third party, load-serving entity, or a grid balancing authority. Consent may be express
41 or implied.

42 “Consumer product” means any appliance or device which consumes energy, controls the
43 energy consumption of another device or appliance, or charges a battery and which is
44 distributed in commerce for personal use by individuals.

45 “Delay timer” means a control that allows the user to delay the start of the appliance cycle up
46 to 24 hours in increments no larger than 1 hour.

47 “Energy Commission” means the State Energy Resources Conservation and Development
48 Commission.

49 “Executive Director” means the Executive Director of the Energy Commission or their
50 designee.

51 “FAD” means the Flexible Appliance Database established pursuant to section 1693(c) of this
52 Article and maintained by the Energy Commission.

53 “Flexible demand” means the capability to schedule, shift, or curtail the electrical demand of a
54 load-serving entity’s customer through direct action by the customer or through action by a
55 third party, the load-serving entity, or a grid balancing authority, with the customer’s consent.

56 “Load-serving entity” means an electrical corporation, electric service provider, or community
57 choice aggregator. “Load-serving entity” does not include any of the following:

- 58 (1) a local publicly owned electric utility;
- 59 (2) The State Water Resources Development System commonly known as the State Water
60 Project; or
- 61 (3) customer generation located on the customer’s site or providing electric service through
62 arrangements authorized by Public Utilities Code Section 218, if the customer
63 generation, or the load it serves, meets one of the following criteria:
 - 64 (A) it takes standby service from the electrical corporation on a California Public Utilities
65 Commission-approved rate schedule that provides for adequate backup planning
66 and operating reserves for the standby customer class;
 - 67 (B) it is not physically interconnected to the electrical transmission or distribution grid, so
68 that, if the customer generation fails, backup electricity is not supplied from the
69 electrical grid; or
 - 70 (C) there is physical assurance that the load served by the customer generation will be
71 curtailed concurrently and commensurately with an outage of the customer
72 generation.

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73 “Logical” means accessible through a hardware or software interface.

74 “Manufacturer” means any person engaged in the production or assembly of an appliance or
75 commercial and industrial equipment, or any person that has responsibility for the production
76 or assembly of an appliance.

77 “Model” means any collection of appliance units to which the manufacturer has assigned the
78 same model number.

79 “Model number” means a combination of letters, digits, or characters representing the
80 manufacturer, brand, design, or performance of an appliance.

81 **(b) Electric Clothes Dryers.**

82 “Compact electric clothes dryer” means an electric clothes dryer with a drum capacity less than
83 4.4 ft³.

84 “Electric clothes dryer” means a consumer product and a cabinet-like appliance designed to
85 dry fabrics in a tumble-type drum with forced air circulation. The heat source is electricity and
86 the drum and blower(s) are driven by an electric motor(s).

87 “Standard electric clothes dryer” means an electric clothes dryer with a drum capacity of 4.4 ft³
88 or greater.

89 **(c) Dishwashers.**

90 “Compact dishwasher” means a dishwasher that has a capacity of less than eight place
91 settings plus six serving pieces as defined in 10 C.F.R. part 430, Appendix C1 of subpart B.

92 “Dishwasher” means a consumer product and a cabinet-like appliance which with the aid of
93 water and detergent, washes, rinses, and dries (when a drying process is included) dishware,
94 glassware, eating utensils, and most cooking utensils by chemical, mechanical and/or
95 electrical means and discharges to the plumbing drainage system.

96 “Standard dishwasher” means a dishwasher that has a capacity equal to or greater than eight
97 place settings plus six serving pieces as defined in 10 C.F.R., part 430, Appendix C1 of
98 subpart B.

100 **(d) Pool Pump Controls.**

101 “Pool pump control” means any component or group of components that controls or causes the
102 pool filter pump to start or stop operation.

103 “Pool filter pump” means an end suction pump that:

104 (1) either:

105 (A) includes an integrated basket strainer; or

106 (B) does not include an integrated basket strainer, but requires a basket strainer for
107 operation, as stated in manufacturer literature provided with the pump; and

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- 108 (2) may be distributed in commerce connected to, or packaged with, a sand filter,
109 removable cartridge filter, or other filtration accessory, provided that the filtration
110 accessory is connected with consumer-removable connections that allow the filtration
111 accessory to be bypassed.

112 (e) Thermostats.

113
114 “Class 2 circuit” means a system that has the current limited as follows:

- 115 (1) maximum 20 volts, 5 amperes. Circuits in which the open-circuited voltage does not
116 exceed 20 volts and having overcurrent protection of not more than 5 amperes rating
117 when overcurrent protection is required; and
118 (2) 20 to 30 volts, 3.3 amperes. Circuits in which the open-circuited voltage exceeds 20
119 volts but does not exceed 30 volts and having overcurrent protection of not more than
120 3.3 amperes rating when overcurrent protection is required.

121
122 “Low voltage thermostat” means a thermostat that acts to automatically control the
123 temperature of the room or space in which it is installed by controlling the applied energy to a
124 low-voltage operating control in a Class 2 circuit.

125
126 “Thermostat” means a device that uses a switch to sense and control room temperature
127 through communication with heating, ventilating, or air-conditioning equipment. “Thermostat”
128 includes a thermostat used to sense and control room temperature in residential, commercial,
129 industrial, and other buildings, but does not include a thermostat used to sense and control
130 temperature as part of a manufacturing process.

131 Note:

132 Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.

133 Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.
134
135

136 Section 1688. General Testing Requirements.

- 137 (a) If section 1690 of this Article requires that a specific appliance type be tested, then the
138 manufacturer shall cause the testing of units of each basic model of appliance within the scope
139 of this Article and comply with the applicable provisions of this section.

140 (1) The testing shall be at a laboratory that:

- 141 (A) has conducted tests using the applicable test method within the previous 12 months;
142 (B) agrees to and does interpret and apply the applicable test method set forth in section
143 1690 of this Article precisely as written;
144 (C) has, and keeps properly calibrated and maintained, all equipment, material, and
145 facilities necessary to apply the applicable test method precisely as written;
146 (D) agrees to and does maintain copies of all test reports, and provides any such report to
147 the Executive Director on request, for all basic models that are still in commercial
148 production; and

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149 (E) agrees to and does allow the Executive Director to witness any test of such an
150 appliance on request, up to once per calendar year for each basic model.

151 (b) Please see section 1690 of this Article for additional testing requirements for specific
152 appliances.

153
154 Note:

155 Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.

156 Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

157 158 **Section 1689: General Marking Requirements.**

159
160 (a) Every unit of every appliance within the scope of this Article shall comply with the applicable
161 provisions of this section.

162 (b) The following information shall be permanently, legibly, and conspicuously displayed on an
163 accessible place on each unit.

164 (1) manufacturer's name or brand name or trademark;

165 (2) model number; and

166 (3) date of manufacture, indicating (i) year and (ii) month or smaller (e.g. week) increment. If
167 the date is in a code, the manufacturer shall immediately, on request, provide the code to
168 the Energy Commission.

169 (c) See section 1690 of this Article for additional marking requirements for specific appliances.

170 Note:

171 Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.

172 Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

173 174 **Section 1690: Appliance Specific Standards and Requirements.**

175 (a) Every unit of every appliance within the scope of this Article shall comply with the applicable
176 provisions of this section.

177 (b) **Electric clothes dryers.**

178 (1) **Testing requirements.** None.

179 (2) **Flexible demand appliance standards.** All electric clothes dryers manufactured on or
180 after January 1, 2024 shall meet the following standards.

181 (A) Electric clothes dryers shall have a delay timer.

182 (B) Electric clothes dryers shall be a "connected device" as defined in section 1687 of this
183 Article.

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184 (3) **Marking Requirements.** The general marking requirements shown in section 1689 of this
185 Article must be met. There are no additional marking requirements for electric clothes
186 dryers.

187 (4) **Reliability and cybersecurity standards.** The general reliability and cybersecurity
188 standards shown in section 1691 of this Article must be met. There are no additional
189 reliability and cybersecurity standards for electric clothes dryers.

190 (c) **Dishwashers.**

191 (1) **Testing requirements.** None.

192 (2) **Flexible demand appliance standards.** All dishwashers manufactured on or after January
193 1, 2024 shall meet the following standards.

194 (A) Dishwashers shall have a delay timer.

195 (B) Dishwashers shall be a “connected device” as defined in section 1687 of this Article.

196 (3) **Marking Requirements.** The general marking requirements shown in section 1689 of this
197 Article must be met. There are no additional marking requirements for dishwashers.

198 (4) **Reliability and cybersecurity standards.** The general reliability and cybersecurity
199 standards shown in section 1691 of this Article must be met. There are no additional
200 reliability and cybersecurity standards for dishwashers.

201 (d) **Pool pump controls.**

202 (1) **Testing requirements.** None.

203 (2) **Flexible demand appliance standards.** All pool pump controls manufactured on or after
204 January 1, 2024 shall meet the following standards.

205 (A) Pool pump controls shall be a “connected device” as defined in section 1687 of this
206 Article.

207 (B) Time-of-Use Rate Schedules.

208 1. The pool pump controls shall have the clock and scheduling capabilities:

- 209 a. In the event of a loss of power, the system settings, including operating mode,
210 time-of-use schedules, and local clock, shall be retained for at least three
211 months.
- 212 b. The pool pump control shall automatically transition between standard time and
213 daylight time.
- 214 c. The pool pump control shall store electric rate information for a minimum of five
215 time-of-use schedules. Each schedule shall include the start date, stop date, start
216 time and stop time for at least five changes in electricity rate. Each schedule shall
217 have at least three separate seasonal schedules.

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218 2. The pool pump controls shall support both local and remote setup, selection, and
219 update of time-of-use schedules. Local and remote setup, selection, and update
220 shall be possible through a user interface.

221 (3) **Marking Requirements.** The general marking requirements shown in section 1689 of this
222 Article must be met. There are no additional marking requirements for pool pump controls.

223 (4) **Reliability and cybersecurity standards.** The general reliability and cybersecurity
224 standards shown in section 1691 of this Article must be met. There are no additional
225 reliability and cybersecurity standards for pool pump controls.

226 (e) **Thermostats.**

227 (1) **Testing requirements.** None.

228 (2) **Flexible demand appliance standards.** All thermostats manufactured on or after January
229 1, 2024 shall meet the following standards.

230 (A) Thermostats shall be a “connected device” as defined in section 1687 of this Article.

231 (B) **Setback Capabilities.** All thermostats shall have a clock mechanism that allows the
232 building occupant to program the temperature setpoints for at least four periods within
233 24 hours.

234 (C) **User Display and Interface.** The thermostat shall display the following:

- 235 1. communications system connection status;
- 236 2. demand response period or pricing event status;
- 237 3. the currently sensed temperature; and
- 238 4. the current setpoint.

239 (3) **Marking Requirements.** The general marking requirements shown in section 1689 of this
240 Article must be met. There are no additional marking requirements for thermostats.

241 (4) **Reliability and cybersecurity standards.** The general reliability and cybersecurity
242 standards shown in section 1691 of this Article must be met. There are no additional
243 reliability and cybersecurity standards for thermostats.

244 Note:

245 Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.

246 Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

247 **Section 1691. General Reliability and Cybersecurity Standards.**

249 (a) Every unit of every appliance within the scope of this Article shall comply with the applicable
250 provisions of this section.

251 (b) Where applicable, flexible demand appliance standards and technologies subject to this Article
252 shall be based on the requirements of state law, the National Institute of Standards and
253 Technology’s reliability and cybersecurity protocols, or other cybersecurity protocols that are

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254 equally or more protective, and shall comply, at a minimum, with the North American Electric
255 Reliability Corporation's Critical Infrastructure Protection standards.

256 (c) **Device Identification.** The manufacturer shall assign a unique logical and physical
257 identification to the connected device.

258 (1) The device identification shall be in a physical and logical location accessible to authorized
259 entities.

260 (d) **Device Configuration.** The configuration of the connected device's software shall be changed
261 by authorized entities only.

262 (1) The connected device shall include the capability to allow the occupant to restore the
263 factory installed default settings.

264 (e) **Data Protection.** The connected device shall protect the data it stores and transmits from
265 unauthorized access and modification.

266 (f) **Passwords.** All connected device passwords shall be unique and shall not be resettable to
267 any universal factory default value.

268 (g) **Software Update.** The connected device's software shall be updated by authorized entities
269 only using a secure and configurable mechanism.

270 (h) **Restart Settings.** Upon device restart, the device shall automatically restore the most recently
271 programmed settings, including reconnection to a network.

272 (i) **Automatic Rejoin.** When physical or logical communication is lost, the connected device shall
273 automatically attempt to rejoin the physical or logical communication.

274 (j) **Override Function.** The connected device shall allow occupants to change the event
275 responses and connected device settings at any time.

276 Note:

277 Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.

278 Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

279 280 **Section 1692. Customer Consent.**

281 (a) Appliances subject to this Article shall provide mechanisms for obtaining customer consent that
282 maximize customers' use of the appliances' flexible demand capabilities. These mechanisms shall
283 include, but need not be limited to, the following:

284 (1) The appliance shall have notifications on the appliance packaging materials in an
285 accessible place that inform customers of the appliance's flexible demand capabilities,
286 including, where applicable, that the appliance also has features that allow energy
287 providers or other entities to control the appliance's flexible demand capabilities with the
288 customer's consent.

289 (2) A manufacturer shall provide information on the manufacturer website of the flexible
290 demand capabilities of the appliance.

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- 291 (3) The appliance shall provide electronic consent functions, opt-in or opt-out features, and
292 error notifications, on the flexible demand capabilities.
- 293 (4) The appliances shall obtain customer consent prior to the collection of customer data.
- 294 (5) The appliance shall provide features to tell consumers of the acceptable use policies of
295 customer data.

296 Note:

297 Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.

298 Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

300 Section 1693. Certification Requirements.

301 (a) Filing of Statements.

- 302 (1) Each manufacturer shall electronically file with the Executive Director through the Flexible
303 Appliance Database (FAD) a statement for each appliance that is sold or offered for sale in
304 California.
- 305 (2) The manufacturer statement shall contain the following information:
- 306 (A) each statement shall be a single and complete line of data for a specific model and end-
307 use, containing all the data required in section 1694 of this Article for that appliance
308 type.
- 309 (B) **Asterisks in Model Numbers.** In filing any statement, the manufacturer may use
310 asterisks as a substitute for letters, numbers, blanks, or other characters in the model
311 number, provided that an asterisk:
- 312 1. shall be used only for a part of the model number that does not indicate flexible
313 demand appliance design or performance;
 - 314 2. shall represent a single letter, number, blank, or other character at the asterisk's
315 location in the model number; and
 - 316 3. shall not be used for any of the first four letters, numbers, blanks, or other characters
317 in the model number.
- 318 (C) The name, address, telephone number, e-mail address, and, if available, fax number
319 and URL (web site) address of the manufacturer; provided, however, that if a parent
320 entity is filing on behalf of a subsidiary entity, if a subsidiary entity is filing on behalf of a
321 parent entity, or if an affiliate entity is filing on behalf of an affiliate entity, then each
322 entity shall be clearly identified and the information shall be provided for both entities.
- 323 (D) The name, address, telephone number, e-mail address, and, if available, fax number of
324 the individual to contact concerning the statement pursuant to section 1693(a)(2)(H) of
325 this Article.
- 326 (E) The name, address, telephone number, e-mail address, and, if available, fax number of
327 the person signing the declaration pursuant to section 1693(a)(2)(H) of this Article.

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328 (F) The name and address and, if available, telephone number, fax number, URL (web site)
329 address, and e-mail address of the laboratory or other institution where the testing
330 required by section 1688 of this Article was performed.

331 (G) The statement shall include testing and performance information required for that
332 appliance as listed in section 1694 of this Article.

333 (H) Each statement shall include a declaration, executed under penalty of perjury of the
334 laws of California, that:

- 335 1. all the information provided in the statement is true, complete, accurate, and in
336 compliance with all applicable provisions of this Article;
- 337 2. the requirements of section 1693(a)(2) of this Article have been and are being
338 complied with;
- 339 3. for appliances for which there is a flexible demand appliance standard in section
340 1690 of this Article, that the appliance complies with the applicable standards;
- 341 4. the appliance was tested under the applicable test method specified in section 1690
342 of this Article. If section 1690 of this Article provides more than one test method that
343 may be used, the manufacturer shall identify which method was used; and
- 344 5. all units of the appliance are marked as required by section 1690 of this Article.

345 (I) Identifiers, when referenced in relation to section 1694 of this Article for data submittal
346 requirements, means those fields shown in section 1694 of this Article for each specific
347 appliance type that, when taken in combination for a specific model of a specific
348 appliance type, represent the criteria for designating a model. At a minimum, each
349 specific appliance type's model "identifiers" will include (a) manufacturer, (b) brand, and
350 (c) model number. Individual appliance types may include additional fields as identifiers.
351 All identifiers are represented in section 1694 of this Article by an asterisk ("*"). For
352 purposes of compliance with section 1693(e)(1) of this Article, the identifiers represent
353 fields that cannot be modified

354 (3) Any electronic filing to the FAD constitutes a representation by the person making the filing
355 that:

356 (A) the person will electronically acknowledge receipt through the FAD of all electronic
357 communications concerning the filing from the Executive Director through the FAD to
358 the person;

359 (B) all electronic communications concerning the filing from the Executive Director through
360 the FAD to the person shall be deemed received by the person upon notification to the
361 Executive Director, by the computer from which the Executive Director communication
362 has been sent, that the communication has been sent; and

363 (C) all electronic communications concerning the filing from the person to the Executive
364 Director shall be deemed received by the Executive Director only upon actual receipt.

365 (b) Review of Statements by the Executive Director.

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- 366 (1) The Executive Director shall determine whether a statement is complete, accurate, and in
367 compliance with all applicable provisions of this Article, and whether the appliance for
368 which the statement was submitted complies with all applicable standards in section 1690
369 of this Article.
- 370 (2) In this subsection, “manufacturer” also includes a third-party certifier filing a statement
371 under section 1693(f) of this Article.
- 372 (3) Complete and Accurate Statement. If the Executive Director determines that the statement
373 is complete and accurate and that the appliance complies with all applicable standards, the
374 Executive Director shall:
- 375 (A) immediately include the appliance in the FAD; and
- 376 (B) inform the manufacturer's FAD-designated contact person or the third-party certifier's
377 FAD-designated contact person electronically of the determination within 30 calendar
378 days after receipt by the Executive Director.
- 379 (4) An Incomplete Statement. If the Executive Director determines that a statement is not
380 complete, or that the statement does not contain enough information to determine whether
381 it is accurate or whether the appliance complies with an applicable standard, the Executive
382 Director shall:
- 383 (A) return the statement through the FAD to the manufacturer's FAD-designated contact
384 person with an explanation of its defects and a request for any necessary additional
385 information within 30 calendar days after receipt by the Executive Director.
- 386 (B) The manufacturer shall refile the statement through the FAD with all information
387 requested by the Executive Director.
- 388 (C) The Executive Director shall review the refiled statement.
- 389 (5) Statement is Inaccurate or Appliance Does Not Comply. If the Executive Director
390 determines that the statement is inaccurate or that the appliance does not comply with an
391 applicable standard, the Executive Director shall:
- 392 (A) Reject the statement and return it through the FAD to the manufacturer's FAD-
393 designated contact person with an explanation of its defects within 30 calendar days
394 after receipt by the Executive Director.
- 395 (B) The manufacturer may submit a revised statement through the FAD for the appliance.

396 (c) Flexible Demand Database of Appliance Models.

- 397 (1) The Executive Director shall maintain Flexible Appliance Database known as the FAD. The
398 FAD shall consist of two parts:
- 399 (A) “Approved FAD.” The Approved FAD shall contain information on all appliances that are
400 currently in production, for which complete and accurate statements have been received
401 and approved pursuant to this Article, and that have not been removed from the FAD
402 pursuant to sections 1693(c)(2), 1693(d)-(e), or 1695(a)(3)-(a)(5) of this Article.

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403 (B) “Archived FAD.” The Archived FAD shall contain, at least, information on all appliances
404 that:

- 405 1. are no longer in production, for which complete and accurate statements have been
406 received pursuant to section 1693(a) of this Article; or
- 407 2. have been removed from the Approved FAD pursuant to sections 1693(c)(2) or
408 1695(a)(3) of this Article.

409 (2) Confirmation of the FAD Listings. The Executive Director may, by electronically writing to
410 the most recent electronic address filed pursuant to section 1693(a)(2)(D) of this Article,
411 and request each manufacturer of an appliance listed in the FAD to confirm the validity of
412 the information in each of its FAD listings.

413 (A) If within 30 calendar days of the electronic mailing there is no such reply, the appliance
414 shall be removed from the Approved FAD and moved into the Archived FAD.

415 (B) If the lack of compliance with any requirements of this Article is strictly limited to non-
416 compliance with standards adopted since the most recent filing by the manufacturer:

- 417 1. All affected models will be moved from the Approved FAD to the Archived FAD. After
418 the models have been moved, all affected manufacturers will be notified through the
419 FAD or via email.
- 420 2. The effective date for moving such affected models to the Archived FAD will be the
421 effective date of the new standard.

422 **(d) Assessment of Completeness, Accuracy, and Compliance of Manufacturer Statements.**

423 (1) If the statement is incomplete or inaccurate, or if the Executive Director determines that the
424 statement otherwise fails to comply with any of the requirements of this Article then they
425 shall, ten working days after providing electronic notice to the person designated in section
426 1693(a)(2)(D) of this Article, remove the appliance from the FAD.

427 **(e) Modified and Discontinued Appliances.**

428 (1) Modified Appliances.

429 (A) If any of the appliance characteristics listed in FAD do not match the characteristics of
430 the appliance being sold, or offered for sale, leased, or introduced into commerce, the
431 manufacturer shall file a new statement for the appliance, including all the
432 characteristics needing update.

433 (B) Upon receipt of such a statement, the Executive Director shall review the statement
434 under section 1693(b) of this Article. If the statement is complete, accurate, and in
435 compliance with all applicable standards, the Executive Director shall modify the FAD.

436 (2) Discontinued Appliances.

437 (A) After any appliance has ceased being sold, or offered for sale, leased, or introduced
438 into commerce, the manufacturer shall file a statement only containing the identifiers
439 shown section 1694 of this Article for the appliance.

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(B) Upon receipt of such a statement, the Executive Director shall review the statement under section 1693(b) of this Article. If the statement is complete, accurate, and in compliance with all applicable provisions of this Article, the Executive Director shall remove the appliance from the Approved FAD to the Archived FAD.

(f) Filing by Third-Party Certifier.

- (1) A third party may file a statement on behalf of a manufacturer as required in section 1693(a) of this Article.
- (2) Whether a manufacturer files information required by this section by itself or via a third-party certifier, the manufacturer remains responsible for the truth, accuracy, completeness, and timeliness of all required filings.
- (3) Upon a finding of noncompliance with an applicable provision of this Article, the Executive Director may suspend a third-party certifier from making filings, allow continued filings under specific conditions, or remove affected appliances from the FAD.

Section 1694. Data Submittal Requirements.

The data submittal requirements shown in this section are required pursuant to section 1693 of this Article.

(a) All appliances and connected devices.

- (1) The data submittal requirements shown in Table A-1 are required for all appliances.

Table A-1: Data Submittal Requirements for All Appliances

Required Information	Permissible Answers
*Manufacturer's Name	
*Brand Name	
*Model Number	
Date model to be displayed	
Is a connected device	True, false

*Identifier information as described in section 1693(a)(2)(l) of this Article.

- (2) The data submittal requirements shown in Table A-2 are required for any appliance that is a "connected device", as defined in section 1687 of this Article.

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Table A-2: Data Submittal Requirements for All Connected Devices

Required Information	Permissible Answers
Device has a unique logical and physical identification	True, false
The configuration of the software shall be changed by authorized entities only	True, false
Passwords are unique and shall not be resettable to any universal factory default value	True, false
Device protects the data it stores and transmits from unauthorized access and modification	True, false
Software updates through remote or local means such as a network download or removable media	True, false
Restart Settings. Upon device restart, the device automatically restores the most recently programmed settings, including reconnection to a network	True, false
Automatic Rejoin. When physical or logical communication is lost, the connected device automatically attempts to rejoin the physical or logical communication	True, false
Override Function: The connected device allows occupants to change the event responses and connected device settings at any time	True, false
Device has capability to allow the occupant to restore the factory installed default settings	True, false

464

(b) Electric clothes dryers.

465

The data submittal requirements shown in Table B-1 are required for electric clothes dryers.

466

467

Table B-1: Data Submittal Requirements for Electric Clothes Dryers

Required Information	Permissible Answers
*Type	Compact, standard
*Drum capacity	
*Voltage	120, 240
Has a delay timer	True, false

468

*Identifier information as described in section 1693(a)(2)(l) of this Article.

469

470

(c) Dishwashers.

471

The data submittal requirements shown in Table C-1 are required for dishwashers.

472

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Table C-1: Data Submittal Requirements for Dishwashers

Required Information	Permissible Answers
*Type	Compact, standard
*Number of place settings	
Has a delay timer	True, false

*Identifier information as described in section 1693(a)(2)(l) of this Article.

(d) Pool pump controls.

The data submittal requirements shown in Table D-1 are required for pool pump controls.

Table D-1: Data Submittal Requirements for Pool Pump Controls

Required Information	Permissible Answers
Device is capable of storing at a minimum five time-of-use schedules locally, each supporting at a minimum five distinct time periods for both weekdays and weekends, at least three separate seasonal schedules, and daylight savings time changes.	True, false
Device has ability to support both local and remote setup, selection, and update of time-of-use schedules.	True, false
Local and remote setup, selection, and update shall be possible through a user interface	True, false

(e) Thermostats.

The data submittal requirements shown in Table E-1 are required for thermostats.

Table E-1: Data Submittal Requirements for Thermostats

Required Information	Permissible Answers
Device has a clock mechanism that allows the building occupant to program the temperature setpoints for at least four periods within 24 hours.	True, false
User Display and Interface. The thermostat displays the following; (1) communications system connection status, (2) demand response period or pricing event status, (3) the currently sensed temperature, (4) the current setpoint	True, false

Note:

Authority cited: Sections 25213, 25218, 25402(f) and 25402.11 Public Resources Code.

Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

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Section 1695. Compliance, Enforcement and Administrative Civil Penalties.

(a) Compliance and Enforcement.

(1) Any unit of any appliance subject to this Article may be sold or offered for sale, leased, rented or introduced into commerce in California only if it complies with the requirements of this Article, including, but not limited to the following:

(A) the appliance appears in the most recent FAD established pursuant to section 1693(c) of this Article;

(B) the manufacturer has:

1. tested the appliance as required by section 1690 of this Article;
2. marked the unit as required by section 1690 of this Article;
3. for any appliance for which there is an applicable standard in section 1690 of this Article, certified under section 1693(a) of this Article that the appliance complies with the standard;

(C) the unit has the same components, design characteristics, and all other features that affect flexibility, as applicable, as the units that were tested under section 1690 of this Article or for which information was submitted under section 1693(a) of this Article; and

(D) for any appliance for which there is an applicable standard in section 1690 of this Article, the unit complies with the standard.

(2) The Executive Director and Energy Commission may take any action authorized by statute or Energy Commission regulations to address or prevent any violation of this Article.

(3) **All Appliances: Submittal of Reports of Manufacturers' Certification Testing.**

(A) For any appliance, the Executive Director may at any time request from a manufacturer a copy of the test report that describes the results of the testing that was performed pursuant to section 1688 of this Article and that provides the basis for the information submitted under section 1693(a)(1)(J) of this Article.

(B) The request shall be sent to the e-mail address designated in section 1693(a)(2)(D) of this Article.

(C) If the Executive Director includes with the request information that, in their opinion, constitutes substantial evidence that the appliance or the manufacturer:

1. is not in compliance with an applicable provision of this Article, or
2. that the flexibility of the appliance is not as certified under section 1693(a)(1)(J) of this Article, or
3. is not as required by an applicable standard in section 1690 of this Article, then
4. the manufacturer shall provide a copy of the applicable test report to the Executive Director within 5 working days of the manufacturer's receipt of the request.

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524 (D) If the Executive Director does not receive the test report within the required time, the
525 Executive Director shall remove the appliance from the FAD.

526 (E) If the test report indicates that the appliance model does not comply with an applicable
527 standard in section 1690 of this Article, the Executive Director shall, ten working days
528 after providing electronic notice via e-mail or directly through the FAD to the person
529 designated in section 1693(a)(2)(D) of this Article, remove the model from the FAD.

530 **(4) Inspection by the Executive Director of Appliances Subject to Flexible Demand** 531 **Appliance Standards, Certification, Marking, and Other Requirements of this Article.**

532 (A) The Executive Director shall periodically inspect appliances sold, or offered for sale,
533 rented, leased, or introduced into commerce in the state, to determine whether they
534 conform with the applicable flexible demand appliance standards, certification, marking,
535 and other requirements of this Article.

536 (B) Inspection of an appliance may consist of inspection of one or more units.

537 1. If the inspection indicates that the unit or units comply with the applicable
538 requirements, the matter shall be closed.

539 2. If the inspection indicates that the unit or units do not comply with an applicable
540 requirement, the Executive Director and Energy Commission may take any actions
541 that are authorized by statute or Energy Commission regulations to address or
542 prevent any violation of this Article, including removing the appliance from the FAD.

543 **(5) Executive Director's Enforcement Testing of Appliances Subject to Flexible Demand** 544 **Appliance Standards.**

545 The Executive Director shall periodically cause, at laboratories meeting the criteria of
546 section 1688(a) of this Article, the testing of appliance units sold, or offered for sale, leased,
547 or introduced into commerce in the state, to determine whether the appliances conform with
548 the applicable standards in section 1690 of this Article, and to determine whether their
549 performance is as reported or certified by the manufacturer pursuant to section 1693(a) of
550 this Article. Testing shall be performed as follows:

551 (A) Initial Test. The Executive Director shall perform an initial test on one unit, using the
552 applicable test procedure specified in section 1690 of this Article and shall make a
553 determination as follows:

554 1. Performance Is No Worse Than Required by Standards and Is No Worse Than as
555 Certified by Manufacturer or Third-Party Certifier. If the initial test result indicates
556 that the demand flexibility of the unit is no less than the demand flexibility that is
557 required by all applicable standards in section 1690 of this Article, and that was
558 certified by the manufacturer or third-party certifier pursuant to section 1693(a) of
559 this Article, the matter shall be closed.

560 2. Performance Is Worse Than Required by Standard or Is Worse Than as Certified by
561 Manufacturer or Third-Party Certifier. If the initial test result indicates that the
562 demand flexibility of the unit is less than the demand flexibility that is permitted or

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563 required by any applicable standard in section 1690 of this Article, or that was
564 certified by the manufacturer or third-party certifier pursuant to section 1693(a) of
565 this Article, the Executive Director shall perform a second test on a second unit,
566 using the applicable test procedure specified in section 1690 of this Article.

567 (B) Second Test; Mean of Results. If a second test is performed, the Executive Director
568 shall calculate the mean of the results of the initial test and the second test and shall
569 inform the manufacturer of the results and shall make a determination as follows:

- 570 1. Performance Is No Worse Than Required by Standards and Is No Worse Than as
571 Certified by Manufacturer or Third-Party Certifier. If the two test results indicate that
572 the mean demand flexibility of the two units is no less than the demand flexibility
573 permitted or required by all applicable standards in section 1690 of this Article, and
574 that was certified by the manufacturer or third-party certifier pursuant to section
575 1693(a) of this Article, the matter shall be closed.
- 576 2. Performance is As Required by Standard but is Worse Than as Certified by
577 Manufacturer or Third-Party Certifier. If the two test results indicate that the mean
578 demand flexibility of the two units is less than the demand flexibility that was certified
579 by the manufacturer or third-party certifier pursuant to section 1693(a) of this Article,
580 but that the mean result nevertheless complies with all applicable standards in
581 section 1690 of this Article, the Energy Commission may undertake a proceeding
582 pursuant to section 1695(b)(4) of this Article. If the Energy Commission determines
583 that the two test results indicate that (1) the mean demand flexibility of the two units
584 is less than the demand flexibility as reported or certified by the manufacturer
585 pursuant to section 1693(a) of this Article, and (2) the mean result nevertheless
586 complies with all applicable standards in section 1690 of this Article, then the
587 Executive Director shall modify the listing of the appliance in the FAD to reflect
588 accurately the Energy Commission's determination.
- 589 3. Performance is Not As Required by Standard. If the two test results indicate that the
590 mean flexible demand of the two units is less than any applicable standard in section
591 1690 of this Article, the Executive Director and Energy Commission may take any
592 actions that are authorized by statute or Energy Commission regulations to address
593 or prevent any violation of this Article, including removing the appliance from the
594 FAD.

595 (6) Costs.

596 Except as otherwise provided in this Article, all costs of initial tests showing results as
597 described in section 1695(a)(5)(A)1. or section 1695(a)(5)(B)1. of this Article shall be paid
598 by the Energy Commission. All costs of all other tests shall be paid by the manufacturer.

599 (b) Administrative Civil Penalties.

- 600 (1) No person, including a manufacturer, retailer, contractor, importer, distributor, or lessor
601 shall sell, offer for sale, rent, lease, or introduce into commerce in California a new
602 appliance unless it meets the requirements of this Article. No person shall violate the
603 cybersecurity requirements of this Article. Violations of this Article are subject to an

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604 administrative civil penalty not to exceed two thousand five hundred dollars (\$2,500) for
605 each violation each unit of the appliance is involved in.

606 (2) Notices of Violation.

607 The Executive Director, or their designee, may send a written Notice of Violation by
608 certified mail (registered mail to non-U.S. destinations) or other means that provide actual
609 notice to the person in violation of this Article. The Notice of Violation shall contain the
610 following information:

611 (A) the name and address of the person responsible for the violation;

612 (B) a statement indicating the statute, regulation, order, or decision upon which the Notice
613 of Violation is based, including any provisions relating to the assessment of
614 administrative civil penalties;

615 (C) a statement of facts upon which the Notice of Violation is based, including a description
616 of the appliances or units of appliances at issue and a reference to model numbers.

617 (3) Settlement.

618 Consistent with California Government Code Section 11415.60, the Energy Commission
619 may at any time issue a decision by settlement with a responsible person. The settlement
620 agreement may include appropriate sanctions and remedies to address violations and
621 promote compliance.

622 (4) Administrative Proceedings.

623 (A) No earlier than 30 calendar days after issuing a Notice of Violation, the Executive
624 Director may initiate an adjudicative proceeding to impose administrative civil penalties
625 if the Executive Director determines that the responsible person has not made sufficient
626 progress in addressing the violations identified in the Notice of Violation.

627 (B) The proceeding shall be initiated by filing and serving an accusation as specified in
628 California Government Code Section 11505. The accusation shall include an
629 assessment of penalties and may include other information from the Notice of Violation.

630 (C) The proceeding shall be conducted in a manner consistent with Chapter 4.5
631 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of
632 part 1 of Division 3 of Title 2 of the California Government Code.

633 (D) The proceeding shall be heard by an administrative law judge pursuant to Government
634 Code Section 11517(c), unless the Chair of the Energy Commission orders that the
635 proceeding be heard directly by the Energy Commission with the assistance of an
636 Administrative Law Judge pursuant to California Government Code Section 11517(b).

637 (E) After the hearing referenced in this Article, the Energy Commission shall issue or adopt
638 a decision on whether a violation of this Article has been committed, and assess
639 appropriate penalties based on application of the factors set forth in section 25402.11 of
640 the Public Resources Code.

641 (5) Other Enforcement Procedures.

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642 The Executive Director and Energy Commission may take any actions that are authorized
643 by statute or Energy Commission regulations to address or prevent any violation of this
644 Article.

645 (6) **Judicial Review.**

646 An order of the Energy Commission imposing an administrative civil penalty shall be
647 subject to judicial review pursuant to Public Resources Code Sections 25534.2(a) and
648 25534.2(b).

649
650
651 Note: Authority cited: Sections 25213, 25218, 25402(f) and 25402.11, Public Resources Code.
652 Reference: Sections 25216.5(d), 25402(f) and 25402.11, Public Resources Code.

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